

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
MALLINCKRODT PLC, <i>et al.</i> ,	:	Bankruptcy Case No. 20-12522 (JTD)
	:	
Debtor.	:	
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CITY OF ROCKFORD, IL, <i>et al.</i> ,	:	
	:	
Appellants,	:	
	:	
v.	:	C.A. No. 21-1161-LPS
	:	Bankr. BAP No. 21-59
MALLINCKRODT PLC, <i>et al.</i> ,	:	
	:	
Appellees.	:	
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RECOMMENDATION

At Wilmington this **2nd** day of **November, 2021**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

This Appeal relates to a July 21, 2021 Order by the Honorable John T. Dorsey of

the United States Bankruptcy Court for this District, which disallowed Appellants' class proofs of claim against the Debtors in their Chapter 11 cases. Because of the nature of the relief granted and the issues on appeal, one of the parties believe mediation would be fruitful and request that this matter be removed from mandatory mediation.

Appellants' proposed a briefing schedule identical to the schedule proposed in the City of Rockford et al v. Mallinckroft plc., Case No. 21-1150 LPS, and do not agree with the briefing schedule proposed by Appellees. The proposed briefing schedule by Appellants was to begin on October 21, 2021, with the responsive brief due on November 22, 2021 and the reply brief by December 6, 2021. Their concern was that delay works against the interests of their clients and potentiates a finding of equitable mootness. Although Appellants recognize that there are questions of law which are similar, the dissimilarity creates the risk of confusion on the issues.

Appellees' proposed briefing schedule is as follows: Appellants' opening brief November 29, 2021, Appellees' answering brief December 28, 2021 and Appellants' reply brief January 11, 2022.

This court recommends that the Appellants' opening brief be due on November 15, 2021, Appellees' responsive brief December 15, 2021 and Appellants' reply brief be due on December 28, 2021.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. The parties were advised of their right to file objections to this Recommendation pursuant to

28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng